

Appl. No. 10/658,754

Docket No.: 21398-00034

REMARKS

Claims 1-16 are now in the application.

Claims 10-16 have been amended to recite "formaldehyde detecting material" in place of "formaldehyde containing material" for purposes of clarification and not to limit their original scope.

The rejections of claims 1-16 under 35 USC 112, second paragraph have been obviated by the above amendments to the claims and/or are not deemed tenable. In particular, claims 10-16 have been amended to recite "formaldehyde detecting material" in place of "formaldehyde containing material" as suggested by the examiner.

Concerning the rejection of claims 1-16 under 35 USC 112, second paragraph, the claims are properly identified as product-by-process claims, which is an entirely acceptable way to claim the present invention. Moreover, the claims are quite clear in defining the invention by reciting the presence of "4-amino-4-phenyl-3-ene-2-one".

Also, the term "at least" does not render claim 1 indefinite. In particular, this phrase in claim 1 is intended to convey that the impregnating must occur in the gas reaction zone but not limited to only the gas reaction zone and that it could in addition be employed elsewhere in the material.

Claims 1-16 were rejected under 35 USC 102(b) as being anticipated by or under 35 USC 103(a) as being obvious over USP 4,666,859 to Attar. Attar does not anticipate and does not suggest the present invention since, among other things, such does not disclose the 4-amino-4-phenyl-3-ene-2-one as recited in the claims and contained in the claimed product. See lines 3 and 5 of claim 1. Instead, Attar requires silver potassium cyanide and rubeanic acid or a derivative thereof as the reagent. The silver potassium cyanide is a toxic cyano complex requiring extreme caution and care must be exercised when it is handled and disposed of after use. The resulting product of the present claims because of the vastly different reagent used will necessarily result in a product that is distinct from the cited art.

Attar fails to anticipate the present invention, since anticipation requires the disclosure, in a prior art reference, of each and every recitation as set forth in the claims. *See Titanium Metals Corp. v. Banner*, 227 USPQ 773 (Fed. Cir. 1985), *Orthokinetics*,

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Inc. v. Safety Travel Chairs, Inc., 1 USPQ2d 1081 (Fed. Cir. 1986), and *Akzo N.V. v. U.S. International Trade Commissioner*, 1 USPQ2d 1241 (Fed. Cir. 1986).

There must be no difference between the claimed invention and reference disclosure for an anticipation rejection under 35 U.S.C. 102. *See Scripps Clinic and Research Foundation v. Genetech, Inc.*, 18 USPQ2d 1001 (CAFC 1991) and *Studiengesellschaft Kohle GmbH v. Dart Industries*, 220 USPQ 841 (CAFC 1984).

In view of the above, consideration and allowance are, therefore, respectfully solicited.

In the event that the Examiner believes an interview might serve to advance the prosecution of this application in any way, the undersigned attorney is available at the telephone number noted below.

Please charge any necessary fees or credit any overpayment to Deposit Account 22-0185.

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Respectfully submitted,

By

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